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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,500	01/23/2007	Serge Saadoun	1013-003	1718

47654 7590 01/22/2010
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EXAMINER

ATKISSON, JIANYING CUI

ART UNIT	PAPER NUMBER
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3742

MAIL DATE	DELIVERY MODE
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01/22/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,500	Applicant(s) SAADOUN, SERGE	
	Examiner JIANYING ATKISSON	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-23 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-23 and 25-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment filed on 10/29/09 is acknowledged. Claims 15-23 and 25-28 are now pending. Claim 15 has been amended, and claim 24 has been cancelled.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15-23 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forrester et al. (US Patent No. 6,281,477) in view of Barnett (US Patent No. 2,021,458), and further in view of Kochman et al. (US Patent No. 6,563,094).

Regarding claims 15-16, Forrester et al. teaches a heater bag for bakery products made using a flour-based dough (abstract, pizza delivery bag), the bag comprising a flexible or semi-rigid casing defining a bottom, side walls; an opening, and means for selectively closing the opening (Figs. 1-5, Col. 6, lines 20-25), the bag being wherein the heater bag includes at least one semi-flexible heater plate (Modular heating element 168) having an electrical heater element incorporated therein (Col. 7, lines 52-55) and the heater plate being inserted in a pocket (pockets 142, 144); said pocket constituting a portion of the bottom, of the side walls, or of the means for closing the bag (Col. 6, lines 43-48) (*Regarding claim 15*).

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Forrester et al. does not explicitly disclose that the pocket is made of natural material comprising cotton, flax, and wool.

In the same field of endeavor of heating bags or heating pads, Barnett teaches that the pocket is made of natural material comprising cotton, and wool (Fig. 2, wool 2, and cotton 3 and 9).

Thus it would have been obvious to a person of ordinary skill in the art at the time the invention was made to choose the combination of wool and cotton as the material for the pocket in Forrester et al. because wool has a property to accumulate moisture from the environment to a more noticeable degree than other material and it is permeable, thus it will absorb the extra gas/vapor from the heating bag and keep the bakery food from getting undesired soggy; and the cotton is a good insulator and cheap.

The previous art combination does not explicitly disclose that the heating power for each heater plate per cm^2 lies in the range of 0.13 W to 0.24 W. As disclosed in the instant specification (page 6, line 28), the heater plate has a width of $D1=177\text{mm}$, and length $D2=620\text{mm}$, with the given power density 0.13 W to 0.24 W per cm^2 , we can get the total power of the heating plate is 143 to 263 Wt.

In the same field of endeavor of soft and flexible electric heater, Kochman et al. teaches a soft and flexible electric heater with adjustable heating power density (Col. 3, lines 61-64, and Col. 11, lines 6-30). According to the example disclosed in Col. 11, lines 6-30, a total power of the heating tape is 330 Wt for 4 heating cables, thus if 3

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heating cables are used, the heating power for the heating tape will be 247 Wt.

Similarly, by increasing or decreasing the numbers of the cables, the heating power density can be in the range of $0.13\text{-}0.24\text{W/ cm}^2$ or $0.16\text{-}0.2\text{W/ cm}^2$ (*Regarding claim 16*).

Thus it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the heat tape with adjustable power density disclosed by Kochman et al. in the previous art combination to so different number of heating cables can be included in the heating tape, so the power density is adjustable, this way the temperature can be easily controlled according to different foods property.

Regarding claim 17, Forrester et al. in view of Barnett and further in view of Kochman et al. teaches the limitations of claim 15, as applied above. Forrester et al. also teaches that the heater bag includes first and second semi-flexible heater plates (168 in pocket 142, 144), each having a heater element incorporated therein (Col. 7, lines 52-55) and the heater plates being inserted in pockets of natural material (Forrester et al. in view of Barnett) constituting a portion of the bottom of the side walls, or of the means for closing the bag (Col. 6, lines 43-48).

Regarding claim 18, Forrester et al. in view of Barnett and further in view of Kochman et al. teaches the limitations of claim 15, as applied above. Kochman et al. also teaches that the power supply voltage for the heater element of each heater plate lies in the range of 100 V to 240 V (Col. 11, line 24).

Regarding claim 19, Forrester et al. in view of Barnett and further in view of Kochman et al. teaches the limitations of claim 17, as applied above. Forrester et al. also teaches that the first and second heater plates are incorporated in two opposite portions of the side walls (Fig. 1, pocket 142, 144).

Regarding claim 20, Forrester et al. in view of Barnett and further in view of Kochman et al. teaches the limitations of claim 17, as applied above. Forrester et al. also teaches that the first and second heater plates are incorporated firstly in the bottom of the bag and secondly in the means for selectively closing the opening (Col. 6, lines 43-48).

Regarding claim 21, Forrester et al. in view of Barnett and further in view of Kochman et al. teaches the limitations of claim 15, as applied above. Kochman et al. also teaches that each semi-flexible heater plate comprises an electrical resistance wire integrated in a sheet that is inserted in sheets of silicone glass fabric (Col. 5., lines 6-12).

Regarding claim 22, Forrester et al. in view of Barnett and further in view of Kochman et al. teaches the limitations of claim 15, as applied above. Forrester et al. also teaches that each pocket incorporating a semi-flexible heater plate (168) comprises firstly an outer cotton lining (Fig. 1a, 158) and a flannelette (160) disposed between the outer cotton lining and said heater plate, and secondly an inner cotton lining (156) placed on the inside relative to said heater plate (All the fabric can be cotton/flannelette in view of Barnett).

Regarding claim 23, Forrester et al. in view of Barnett and further in view of Kochman et al. teaches the limitations of claim 15, as applied above. Forrester et al. also teaches that the bag is elongate in shape (Col. 6, the bag can be multipurpose and thus can be of different shapes) and the means for selectively closing the opening are constituted by a simple flexible flap (114) or by closure means disposed in the vicinity of the rim of the opening (Col. 8, lines 6-14 and 30-39).

Regarding claim 25, Forrester et al. in view of Barnett and further in view of Kochman et al. teaches the limitations of claim 15, as applied above. Kochman et al. also teaches that the heater bag includes a switch (10 and 10') for selectively connecting the heater elements in series for powering from a power supply at a first nominal voltage V_{N1} , or in parallel for powering from a power supply at a second nominal voltage V_{N2} equal to half the first nominal voltage V_{N1} (Col. 4, lines 61-64, since the heater is designed for a variety of input voltages, thus it can be powered by a nominal voltage V_{N1} and V_{N2} , Where $V_{N2}=1/2 V_{N1}$).

Regarding claim 26, Forrester et al. in view of Barnett and further in view of Kochman et al. teaches the limitations of claim 15, as applied above. Kochman et al. also teaches that the heater bag further comprises a temperature limiter (Temperature sensor 27) integrated in each heater plate.

Regarding claim 27, Forrester et al. in view of Barnett and further in view of Kochman et al. teaches the limitations of claim 15, as applied above. Forrester et al. also teaches that the heater bag includes a pair of semi-flexible heater plates disposed

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in two opposite main faces of the bag (Fig. 1, face 104 and 106), and wherein the walls uniting these opposite main faces present a capacity for deformation in a direction perpendicular to said opposite main faces (Col. 6, lines 60-64, walls 110 and 112 are deformable since they are made of fabric).

Regarding claim 28, Forrester et al. in view of Barnett and further in view of Kochman et al. teaches the limitations of claim 15, as applied above. Forrester et al. also teaches that each semi-flexible heater plate is removable relative to the pocket in which it is inserted (Col. 7, lines 36-38).

Response to Arguments

Applicant's arguments filed on 10/29/09 have been fully considered but they are not persuasive.

Applicants argue that “the present invention as claimed in claim 15 aims at solving a problem which is different from the problem solved by the delivery bag proposed by Forrester. In particular, the present invention relates to ‘a heater bag for **baking** products made using a flour-based dough’”. The examiner respectfully disagrees. **Firstly**, the claimed language in claim 15 is “a heater bag for **bakery** products made using a flour-based dough”, not “**baking**” as appeared in the applicant’s arguments as quoted above; **secondly**, claim 15 claims a heater bag, and the intended use is for **bakery** products made using a flour-based dough, **no further limitation is claimed as how the heater bag is used**, thus the applicant is arguing more than he claimed with the argument that “the present invention is designed to be ‘suitable for use in complete safety for quickly warming bakery products, while fully conserving the

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quality and the integrity of these products and simultaneously improving their flavour”; **thirdly**, Forrester et al teaches a heater bag for bakery products, the bag can be used for pizza delivery or used in any other suitable ways for any other bakery products.

Applicant further argues that the heater bag by Forrester is not adapted to obtain high temperatures of about 40°C (104°F); however, since “to obtain high temperatures of about 40°C (104°F)” is not a claimed feature of the heater bag, the applicant is again arguing more than he claimed. Similarly, applicant’s other arguments are referring to features of a heater bag not claimed in the independent claim 15.

Since Forrester et al teaches a heater bag for bakery product with the claimed structure, thus it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine teachings of Barnett and Kochman et al. to use suitable materials for the pocket and suitable values of heating power for various possible uses for the heating bag, for example, a delivery bag for pizza, as discussed above in rejection regarding claim 15.

In conclusion, Forrester et al in view of Barnett and Kochman et al. teaches the limitation of claim 15.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JIANYING ATKISSON whose telephone number is (571)270-7740. The examiner can normally be reached on Mon-Thur. 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571)-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A./
Examiner, Art Unit 3742

/Quang T Van/
Primary Examiner, Art Unit 3742